



February 25, 2005

## SENATE BILL No. 533

DIGEST OF SB 533 (Updated February 22, 2005 1:36 pm - DI 106)

**Citations Affected:** IC 5-14; IC 9-14; IC 9-24; IC 9-27; IC 34-30.

**Synopsis:** Various driver licensing matters. Revises conflicting language concerning public records confidentiality. Requires: (1) the driver licensing medical advisory board to assist the office of traffic safety; and (2) the office of traffic safety to develop programs and materials concerning senior citizens' driving ability. Provides that certain driver's licenses issued to individuals at least 85 years of age expire two years after issuance and that a vision examination is required to renew these licenses. Grants immunity from civil or criminal liability to a licensed physician, optometrist, or advanced practice nurse who makes a good report to the bureau of motor vehicles concerning a patient's fitness to operate a motor vehicle not more than 30 days after having examined the patient. Makes a technical correction.

**Effective:** July 1, 2005.

**Riegsecker**

January 20, 2005, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.  
February 24, 2005, amended, reported favorably — Do Pass.

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SB 533—LS 7817/DI 96+



February 25, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## SENATE BILL No. 533

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.173-2003,  
2 SECTION 5, AND AS AMENDED BY P.L.200-2003, SECTION 3, IS  
3 CORRECTED AND AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The following public records  
5 are excepted from section 3 of this chapter and may not be disclosed by  
6 a public agency, unless access to the records is specifically required by  
7 a state or federal statute or is ordered by a court under the rules of  
8 discovery:  
9 (1) Those declared confidential by state statute.  
10 (2) Those declared confidential by rule adopted by a public  
11 agency under specific authority to classify public records as  
12 confidential granted to the public agency by statute.  
13 (3) Those required to be kept confidential by federal law.  
14 (4) Records containing trade secrets.  
15 (5) Confidential financial information obtained, upon request,  
16 from a person. However, this does not include information that is  
17 filed with or received by a public agency pursuant to state statute.

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(6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

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(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) ~~information concerning the factual basis for a disciplinary action~~ *action* in which final action has been taken and that resulted in the employee being ~~disciplined~~ *suspended, demoted, or discharged.*

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping or security system.

(11) Computer programs, computer codes, computer filing

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1 systems, and other software that are owned by the public agency  
 2 or entrusted to it and portions of electronic maps entrusted to a  
 3 public agency by a utility.

4 (12) Records specifically prepared for discussion or developed  
 5 during discussion in an executive session under IC 5-14-1.5-6.1.  
 6 However, this subdivision does not apply to that information  
 7 required to be available for inspection and copying under  
 8 subdivision (8).

9 (13) The work product of the legislative services agency under  
 10 personnel rules approved by the legislative council.

11 (14) The work product of individual members and the partisan  
 12 staffs of the general assembly.

13 (15) The identity of a donor of a gift made to a public agency if:

14 (A) the donor requires nondisclosure of the donor's identity as  
 15 a condition of making the gift; or

16 (B) after the gift is made, the donor or a member of the donor's  
 17 family requests nondisclosure.

18 (16) Library or archival records:

19 (A) which can be used to identify any library patron; or

20 (B) deposited with or acquired by a library upon a condition  
 21 that the records be disclosed only:

22 (i) to qualified researchers;

23 (ii) after the passing of a period of years that is specified in  
 24 the documents under which the deposit or acquisition is  
 25 made; or

26 (iii) after the death of persons specified at the time of the  
 27 acquisition or deposit.

28 However, nothing in this subdivision shall limit or affect contracts  
 29 entered into by the Indiana state library pursuant to IC 4-1-6-8.

30 (17) The identity of any person who contacts the bureau of motor  
 31 vehicles concerning the ability of a driver to operate a motor  
 32 vehicle safely and the medical records and evaluations made by  
 33 the bureau of motor vehicles staff or members of the driver  
 34 licensing ~~medical committee~~ advisory board. However, upon  
 35 written request to the commissioner of the bureau of motor  
 36 vehicles, the driver must be given copies of the driver's medical  
 37 records and evaluations that concern the driver.

38 (18) School safety and security measures, plans, and systems,  
 39 including emergency preparedness plans developed under 511  
 40 IAC 6.1-2-2.5.

41 (19) A record or a part of a record, the public disclosure of which  
 42 would have a reasonable likelihood of threatening public safety

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by exposing a vulnerability to terrorist attack. A record described under this subdivision includes:

- (A) a record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2;
- (B) vulnerability assessments;
- (C) risk planning documents;
- (D) needs assessments;
- (E) threat assessments;
- (F) domestic preparedness strategies;
- (G) the location of community drinking water wells and surface water intakes;
- (H) the emergency contact information of emergency responders and volunteers;
- (I) infrastructure records that disclose the configuration of critical systems such as communication, electrical, ventilation, water, and wastewater systems; and
- (J) detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency. A record described in this clause may not be released for public inspection *by any public agency* without the prior approval of the public agency *that owns, occupies, leases, or maintains the airport*. The ~~submitting~~ public agency *that owns, occupies, leases, or maintains the airport*:
  - (i) is responsible for determining whether the public disclosure of a record or a part of a record has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack; and
  - (ii) must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under ~~IC 5-14-3-4(19)(I)~~ **IC 5-14-3-4(b)(19)(J)** without approval of (insert name of submitting public agency)".

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a

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reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Address.

(C) Social Security number.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 9-14-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall provide the commissioner **and the office of traffic safety created by IC 9-27-2-2** with assistance in the administration of Indiana driver licensing laws, including:

(1) providing guidance to the commissioner in the area of licensing drivers with health or other problems that may adversely affect a driver's ability to operate a vehicle safely;

(2) recommending factors to be used in determining qualifications and ability for issuance and retention of a driver's license; and

(3) recommending and participating in the review of license suspension, restriction, or revocation appeal procedures.

SECTION 3. IC 9-24-10-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. A physician licensed to practice medicine under IC 25-22.5, an optometrist licensed to practice optometry under IC 25-24, and an advanced practice nurse licensed under IC 25-23 who have personally examined the patient not more than thirty (30) days before making a report concerning the patient's fitness to operate a motor vehicle are not civilly or criminally liable for a report made in good faith to the:**

(1) bureau;

(2) commission; or

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(3) driver licensing medical advisory board;  
 concerning the fitness of a patient of the physician, optometrist, or  
 advanced practice nurse to operate a motor vehicle in a manner  
 that does not jeopardize the safety of individuals or property.

SECTION 4. IC 9-24-12-1 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as  
 provided in subsection (b) and section 10 of this chapter, an  
 operator's license issued under this article after December 31, 1996,  
 expires at midnight of the birthday of the holder that occurs four (4)  
 years following the date of issuance.

(b) Except as provided in section 10 of this chapter, an operator's  
 license issued after December 31, 1996, to an applicant who is at least  
 seventy-five (75) years of age expires at midnight of the birthday of the  
 holder that occurs three (3) years following the date of issuance.

SECTION 5. IC 9-24-12-2 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. Except as provided  
 in section 10 of this chapter, a chauffeur's license issued under this  
 article after December 31, 1996, expires at midnight of the birthday of  
 the holder that occurs four (4) years following the date of issuance.

SECTION 6. IC 9-24-12-5 IS AMENDED TO READ AS  
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) An individual  
 who applies for renewal of an operator's, a motorcycle operator's, a  
 chauffeur's, or a public passenger chauffeur's license in person at a  
 license branch must do the following:

- (1) Pass an eyesight examination.
- (2) Pass a written examination if:
  - (A) the applicant has at least six (6) active points on the  
 applicant's driving record maintained by the bureau; or
  - (B) the applicant holds a valid operator's license but has not  
 reached the applicant's twenty-first birthday.

(b) Except as provided in section 10 of this chapter, an individual  
 may apply for renewal of an operator's, a motorcycle operator's, a  
 chauffeur's, or a public passenger chauffeur's license by mail or by  
 electronic service if the following conditions are met:

- (1) A valid computerized image of the individual exists within the  
 records of the bureau.
- (2) The previous renewal of the operator's, motorcycle operator's,  
 chauffeur's, or public passenger chauffeur's license was not made  
 by mail or by electronic service.
- (3) The previous renewal included a test approved by the bureau  
 of the applicant's eyesight.
- (4) The applicant, if applying for the renewal in person at a

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license branch, would not be required under subsection (a)(2) to submit to a written examination.

(c) An individual applying for the renewal of an operator's, a motorcycle operator's, a chauffeur's, or a public passenger chauffeur's license must apply in person at a license branch under subsection (a) if the individual is not entitled to apply by mail or by electronic service under subsection (b).

SECTION 7. IC 9-24-12-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) Except as provided in subsection (b) **and section 10 of this chapter**, a motorcycle operator's license ~~issued after December 31, 1996~~, expires at midnight of the birthday of the holder that occurs four (4) years following the date of issuance.

(b) **Except as provided in section 10 of this chapter**, a motorcycle operator's license ~~issued after December 31, 1996~~, to an applicant who is at least seventy-five (75) years of age expires at midnight of the birthday of the holder that occurs three (3) years following the date of issuance.

(c) A motorcycle operator endorsement remains in effect for the same term as the license being endorsed and is subject to renewal at and after the expiration of the license in accordance with this chapter.

(d) A temporary motorcycle learner's permit is valid for twelve (12) months from date of issuance.

SECTION 8. IC 9-24-12-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) **After June 30, 2005:**

- (1) an operator's license;
- (2) a chauffeur's; or
- (3) a motorcycle operator's;

**license issued to or renewed by a driver who is at least eighty-five (85) years of age expires at midnight of the birthday of the holder that occurs two (2) years following the date of issuance.**

(b) **An applicant for a renewal of a:**

- (1) license as set forth in subsection (a); or
- (2) public passenger chauffeur's license who is at least eighty-five (85) years of age;

**must pass an eyesight examination given in person at a license branch before the renewal license may be issued by the bureau.**

SECTION 9. IC 9-27-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The office shall do the following to carry out this chapter:

- (1) Develop, plan, and conduct programs and activities designed

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to prevent and reduce traffic accidents and to facilitate the control of traffic on Indiana streets and highways.

(2) Advise, recommend, and consult with state departments, divisions, boards, commissions, and agencies concerning traffic safety, accident prevention, and traffic facilitation programs and activities and coordinate these programs and activities on an effective statewide basis.

(3) Organize and conduct, in cooperation with state departments and agencies, programs, services, and activities designed to aid political subdivisions in the control of traffic and prevention of traffic accidents.

(4) Develop informational, educational, and promotional material on traffic control and traffic accident prevention, disseminate the material through all possible means of public information, and serve as a clearinghouse for information and publicity on traffic control and accident prevention programs and activities of state departments and agencies. **These activities must include materials and information designed to make senior citizens aware of the effect of age on driving ability.**

(5) Cooperate with public and private agencies interested in traffic control and traffic accident prevention in the development and conduct of public informational and educational activities designed to promote traffic safety or to support the official traffic safety program of Indiana.

(6) Study and determine the merits of proposals affecting traffic control, traffic safety, or traffic accident prevention activities in Indiana and recommend to the governor and the general assembly the measures that will serve to further control and reduce traffic accidents.

(7) Study proposed revisions and amendments to the motor vehicle laws and all other laws concerning traffic safety and make recommendations relative to those laws to the governor and general assembly.

(8) Develop and conduct a program of effective alcohol and drug countermeasures to protect and conserve life and property on Indiana streets and highways.

(9) Administer the operation lifesaver program referred to in section 12 of this chapter to promote and coordinate public education concerning railroad grade crossing safety.

SECTION 10. IC 34-30-2-30.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 30.5. IC 9-24-10-7.5 (Concerning**

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- 1 physicians, optometrists, or advanced practice nurses making
- 2 reports concerning driver impairment).

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## COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 533, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 17, reset in roman "IC 36-2-14-10."

Page 2, line 17, delete "IC 36-2-14-10(a).".

Page 6, line 35, delete "IC 25-22.5 is" and insert **"IC 25-22.5, an optometrist licensed to practice optometry under IC 25-24, and an advanced practice nurse licensed under IC 25-23 who have personally examined the patient not more than thirty (30) days before making a report concerning the patient's fitness to operate a motor vehicle are"**.

Page 6, line 35, after "made" insert **"in good faith"**.

Page 6, line 40, after "physician" insert **", optometrist, or advanced practice nurse"**.

Page 9, line 39, after "physicians" insert **", optometrists, or advanced practice nurses"**.

and when so amended that said bill do pass.

(Reference is to SB 533 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 11, Nays 0.

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